

Decision **PROPOSED DECISION OF COMMISSIONER PEEVEY**
(Mailed 9/26/2014)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas &
 Electric Company (U902E) for Adoption of its Smart
 Grid Deployment Plan.

Application 11-06-006
 (Filed June 6, 2011)

And related matters.

Application 11-06-029
 Application 11-07-001

**DECISION DENYING COMPENSATION TO SOUTHERN CALIFORNIANS
 FOR WIRED SOLUTIONS TO SMART METERS AND CENTER
 FOR ELECTROSMOG PREVENTION FOR FAILURE TO MAKE A
 SUBSTANTIAL CONTRIBUTION TO DECISION 13-07-024**

Intervenors: Southern Californians for Wired Solutions to Smart Meters (SCWSSM) and Center for Electrosmog Prevention (CEP)	For contribution to: D.13-07-024
Claimed: \$30,242.76	Awarded: \$0.00 (reduced 100%)
Assigned Commissioner: Michael Peevey	Assigned ALJ: Timothy J. Sullivan

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	<p>D.13-07-024 presented the Smart Grid Deployment Plan (SGDP) submitted by each of the three major electricity investor-owned utilities in California (SDG&E, PG&E and SCE). In D.10-06-047, the Commission had identified elements that each SGDP would need to contain.</p> <p>Approximately one year later, the three utilities presented their individual SGDPs. D.13-07-024 found that each of the plans was consistent with the provisions of Senate Bill (SB) 17 and the requirements the Commission had adopted in D.10-06-047.</p>
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	9/7/11	Verified
2. Other Specified Date for NOI:		
3. Date NOI Filed:	SCWSSM 9/9/2011 CEP 10/7/2011	Verified Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.11-06-006 A.11-06-029 A.11-07-001	Verified, matters are consolidated
6. Date of ALJ ruling:	SCWSSM 11/30/2011 CEP 12/27/2011	Verified Verified
7. Based on another CPUC determination (specify):	Decision 13-07-044 July 25, 2013 found SCWSSM met the requirements for intervenor compensation	Verified for SCWSSM, ALJ Ruling issued in A.11-03-015 on June 24, 2011, as to customer status.

8. Has the Intervenor demonstrated customer or customer-related status?		Yes for SCWSSM and CEP
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.11-06-006 A.11-06-029 A. 11-07-001	Verified, but ALJ required showing in intervenor compensation request
10. Date of ALJ ruling:	SCWSSM 11/30/2011 CEP 12/27/2011	Verified for both organizations, but <i>see</i> above.
11. Based on another CPUC determination (specify):	Decision 13-07-044 July 25, 2013 found SCWSSM met the requirements for intervenor compensation CEP has attached its declaration of financial hardship as Attachment 4. SCWSSM has attached its declaration of financial hardship as Attachment 5.	Verified for SCWSSM, as to significant financial hardship. Based on the information provided, CEP has made a showing of significant financial hardship.
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-07-024	Verified
14. Date of Issuance of Final Order or Decision:	8/2/2013	Verified
15. File date of compensation request:	9/30/2013	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comments	CPUC Discussion
	Center for Electromog Prevention (CEP) filed a notice of intent to claim compensation	Based on Homec’s representations, we will consider the consolidated request for both

(NOI) in this proceeding, on October 11, 2011. CEP's work was prepared by Martin Homec, also the attorney for SCWSSM so the CEP compensation request has been combined with SCWSSM's compensation request. The work details and hours are explained in Attachment 2 to this request.	SCWSSM and CEP in this decision.
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PART II: SUBSTANTIAL CONTRIBUTION

A. In the fields below, describe in a concise manner Intervenor's contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059).

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. SCWSSM intervened in the above captioned proceedings to save money for ratepayers. SCWSSM also explained the potential health implications of wireless emissions that could further harm the cost effectiveness of the smart grid. The CPUC has a statutory mandate (Pub. Util. Code § 768) to oversee the health and safety implications of the regulated utility companies' actions.	Decision at 3: "On July 6, 2011, Southern Californians for Wired Solutions to Smart Meters (SCWSSM) filed a motion for an extension of time for filing protests as well as a separate motion for party status in A.11-06-006."	No. The Scoping Memo issued in this proceeding on October 3, 2011 specifically excluded health issues from consideration in this particular proceeding: "The scope of this proceeding is set in Decision (D.) 10-06-047, which adopted requirements for Smart Grid Deployment Plans pursuant to Senate Bill (SB) 17 (footnote omitted). This scoping memo establishes that the scope of this proceeding does not include consideration of the health consequences of the deployment of smart meters." (Scoping Memo Ruling at 2.) The Scoping Memo then repeats this

		<p>guidance with specificity: “The scope of the proceeding remains as set forth in Pub. Util. Code § 8364(a) and D.10-06-047.</p> <p>Concerning the broad health issues raised by certain parties, an application for rehearing of D.10-12-001 (in A.10-04-018) places these issues currently before the Commission. Inclusion of these issues in this proceeding would duplicate that work.</p> <p>Concerning the alleged health issues arising from the activation of radio transmitters in smart meters, this issue is before the Commission in A.11-03-014, PG&E’s application to offer an ‘opt-out’ option for those who prefer meters without wireless communication functions (footnote omitted). (<i>Id.</i> at 7-8.) SCWSSM did not make a substantial contribution to the decision on these matters, which were excluded from the scope.</p>
2. SCWSSM also explained the potential health implications of wireless emissions that could further harm the cost effectiveness	Decision at 5: “On August 31, 2011, SCWSSM filed a motion requesting the California	<i>See above.</i> SCWSSM did not make a substantial contribution to the decision on these

of the smart grid. This was submitted before the scoping memo was issued but the scoping memo stated that health issues would not be considered in the evaluation of the smart grid deployment.	Department of Public Health to review the electric and magnetic fields produced by the smart grid.”	matters, which were excluded from the scope.
3.	Decision at 6: “On September 26, 2011, SCWSSM replied to SDG&E’s September 15, 2011 response.”	SCWSSM did not make a substantial contribution to the decision on these matters, which were excluded from the scope.
4.	Decision at 8: “Reply Comments on the Workshop Report were filed by March 22, 2012 by Joint Parties, CEP, MEA, DRA, SCE, TURN, SDG&E, DACC/AReM, PG&E, EnerNOC, SCWSSM, and CLECA.”	SCWSSM did not make a substantial contribution to the decision on these matters, which were excluded from the scope.
SCWSSM Opening Comments on the PD states: “The factual, legal and technical errors in the proposed decision include the requirements of California Pub. Util. Code § 451, SDG&E v. Superior Court (1996) 13 Cal.4 th 893.”	Decision at 106: “SCWSSM argues that the PD “is deficient because it did not evaluate the smart grid deployment compliance with all applicable laws and regulations. ¹ In response, we find this argument unpersuasive. In particular, the SCWSSM filing fails to cite a single statute that a SGDP contravenes.”	D.13-07-024 rejected these SCWSSM’s arguments, as the Intervenor itself points out.
CEP intervened by filing a protest on August 1, 2011, recommending further studies of the smart grid for health reasons, before the October 4, 2011, scoping memo was issued.	Decision at 91: “CEP argues that “SB 17’s safety requirements have not been met” and assert that “[t]he number of reports of harmful effects occurring	As we determined for SCWSSM, CEP did not make a substantial contribution to D.13-07-024 on these matters, because these

¹ SCWSSM Opening Comments on PD at 2.

<p>CEP's March 4, 2012, comments on the workshop included statements about safety, security of the smart grid, privacy concerns of utility customers, and energy efficiency. These comments were not addressed by the Decision. These concerns were repeated in CEP's reply comments submitted on March 21, 2012. The Decision merely stated that CEP's health concerns were outside the scope of this proceeding.</p>	<p>following installation of smart meters is overwhelming."² As a result, CEP recommends that the Commission not accept the plans and hold public hearings."</p> <p>Decision at 101: "Concerning CEP's issue of reviewing the "harmful effects following installation of smart meters," this decision finds that this issue is beyond the scope of this proceeding. In particular, the Scoping Memo in this proceeding "establishes that the scope of this proceeding does not include consideration of the health consequences of the deployment of smart meters.""</p>	<p>issues were specifically excluded from the scope of the proceeding. Again, CEP itself points this out.</p>
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Intervenor's Assertion	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? ³	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Center for Electromog Prevention, Californians for Renewable Energy, and Greenlining Institute.		Verified. Many other parties participated in this proceeding, including ORA, The Utility Reform Network, Clean Coalition, and

² CEP Comments at 2.

³ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to SB 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

	several others.
<p>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>We shared research and held telephone calls to discuss our positions. We filed separate comments to reflect the positions that our groups held. SCWSSM believes that a wired solution to wireless utility communications is optimum. CEP believes that wireless emissions are harmful but does not take a position on the workability of wired solutions. CEP also represents concerns about safety, security of the smart grid, privacy concerns of utility customers, and energy efficiency. The other parties to the proceeding did not address health issues and declined to join SCWSSM's efforts to bring these issues into the proceedings. SCWSSM believes that the Americans with Disabilities Act precludes the CPUC from charging opt out fees for customers adversely affected by wireless emissions. CEP believes that no one should be charged for preferring an analog meter and that analog meters are the low cost solution to metering electric and gas usage. This belief is based on the recent study in Germany showing that smart meters are not cost effective for residential and some small business customers: http://www.greentechmedia.com/articles/read/smart-meters-sluggish-policy-germany-rejects-fast-smart-meter-rollout</p>	<p>As noted above, broad health issues were specifically excluded from the scope of this proceeding, as were alleged health issues arising from the activation of radio transmitters in smart meters. Costs responsibility related to options to opt out of smart meters are addressed in A.11-03-014 and related matters, and in D.12-04-019 and D.12-02-014.</p> <p>In his Rulings addressing eligibility of both SCWSSM and CEP, the assigned ALJ provided specific guidance regarding duplication and the need for parties to collaborate. In addition, the Rulings reminded the intervenors that issues outside the scope of the proceeding would not be compensable.</p>

C. Additional Comments on Part II

#	Intervenor	CPUC	Comment
	SCWSSM		<p>After SCWSSM read and reviewed the applications, SCWSSM noted that the Public Utilities Code mandates for health and safety were not addressed. Therefore, SCWSSM wrote protests to the applications and comments on the workshop, and filed a motion asking that the California Department of Public Health be invited to participate in the proceedings. The Scoping Ruling stated that the scope of the</p>

		XX	<p>proceedings will not include consideration of the health consequences of the deployment of smart meters because those issues are going to be addressed in other proceedings. A.11-03-014, A.11-03-015, and A.11-07-020 were to address issues concerning people with disabilities and the Pub. Util. Code § 453 mandates for health and safety. However, no decision was issued in those proceedings even though their evidentiary hearings concluded in 2012. Therefore, SCWSSM wrote comments to the Proposed Decision in this proceeding recommending that the proceeding remain open until all legal issues concerning smart grid deployment are resolved.</p> <p>SCWSSM believes that the Americans with Disabilities Act is applicable to the issue of smart grid deployment and smart meter installations. CEP believes that the choice of having a smart meter and the associated wireless emissions should be an individual choice available to every ratepayer.</p> <p>No substantial contribution was made on these points, as set forth above.</p>
	CEP	XX	<p>CEP has many concerns about the deployment of the smart grid including health, safety, security of the smart grid, privacy concerns of utility customers, and energy efficiency. Germany's recent⁴ delay in installing smart meters indicates that there are real cost issues that should be addressed by the Commission.</p> <p>No substantial contribution was made on this point.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Intervenor's claim of cost reasonableness:	CPUC Verified
<p>SCWSSM believes that the CPUC has a statutory mandate for health and safety considerations to be included in all CPUC orders. This issue was addressed in protests filed by SCWSSM and CEP. At that time, the scope of the proceeding had not been decided. SCWSSM also addressed this issue in a motion filed and argued before the Scoping Memo was issued.</p> <p>The scoping memorandum for the A.11-06-006 et al. proceedings stated that these issues would be addressed in the A.11-03-014 proceeding, not in this proceeding. But the A.11-03-014 proceeding has not concluded so the health and safety concerns are not yet resolved. SCWSSM filed a motion explaining the California Department of Public Health's mandate and experience in Health issues. These issues were also addressed by the Center for Electromog Prevention and</p>	<p>As stated above, neither SCWSSM nor CEP made substantial contributions to D.13-07-024 on these points. To the extent that CEP addressed safety, reliability, privacy, and energy efficiency issues, these issues were fully and adequately</p>

⁴ <http://www.greentechmedia.com/articles/read/smart-meters-sluggish-policy-germany-rejects-fast-smart-meter-rollout>.

<p>CALifornians for Renewable Energy. The scoping memo also stated that health issues were addressed in D.10-12-001 (in A.10-04-018).</p> <p>Additionally, CEP addressed safety, reliability, privacy, and energy efficiency issues.</p>	<p>addressed by other parties. No substantial contribution was made on these points.</p>
<p>b. Reasonableness of hours claimed:</p> <p>SCWSSM and raised issues only discussed by intervenors CEP and CARE. CEP also raised cost and practicability issues. The utility companies objected to the issues being discussed in this proceeding. Those objections were argued answering SCWSSM's motion. Therefore, CEP and SCWSSM ask for compensation for contributions to resolving the issue of practicability considerations in the Smart Grid Deployment Plans.</p>	<p>While SCWSSM and CEP may have raised issues that were not addressed by other parties, these issues were outside the scope of this proceeding and are not compensable.</p>
<p>c. Allocation of Hours by Issue</p>	<p>SCWSSM and CEP allocated the hours claimed by issue in Attachment 3 to their compensation request. We note that many of these hours are excessive. Hours are claimed for only 1 representative, but hours are claimed for attending workshops for both CEP and SCWSSM. In addition, while the intervenors have addressed only health-related issues, they have allocated work on those issues to the determination of issues listed in the Scoping Memo Ruling. While the intervenors note that the protests were written prior to the issuance of the Scoping Memo Ruling, they recognize that the Scoping Memo Ruling excluded those issues, as stated in the issue allocation table.</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Martin Homec	2011	93.3	\$185	D.13-07-044	\$17,260.50	0	Not set	\$0.00
Martin Homec	2012	44.4	\$190	D.13-07-044	\$8,436.00	0	Not set	\$0
Martin Homec	2013	9.2	\$235	ALJ Res. 287	\$2,162.00	0	Not set	\$0
Subtotal: \$ 27,858.50						Subtotal: \$0.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Martin Homec	2011	8	\$92.50	D.13-07-044	\$740.0	0	Not set	\$0
	2013	13.4	\$117.50	Res. ALJ-287	\$1574.5	0	Not set	\$0
Subtotal: \$2,314.50						Subtotal: \$0.00		
COSTS								
#	Item	Detail			Amount	Amount		
	Copying and Postage				\$69.76	\$0		
TOTAL REQUEST: \$30,242.76						TOTAL AWARD: \$0.00		
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are compensated at ½ of preparer’s normal hourly rate.</p>								

Attorney	Date Admitted to CA BAR ⁵	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Martin Homec	May 31, 1979	085798	No

C. Disallowances and Adjustments:

Item	Reason
1. Disallowance for items outside scope.	Both SCWSSM and CEP were instructed early on in this proceeding that the issues they raised were outside the scope of this proceeding. Unfortunately, they persisted in participating without adhering to the requirements of the Scoping Memo Ruling, issued on October 3, 2011, or the guidance provided by the assigned ALJ in Rulings issued on November 30, 2011 and December 27, 2011. The participation of both intervenors is outside the scope of this proceeding and is therefore not compensable.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	No
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If not:

Party	Comment	CPUC Disposition
	Comments were filed and no changes have been made.	

⁵ This information may be obtained at: <http://www.calbar.ca.gov/>.

FINDINGS OF FACT

1. Southern Californians for Wired Solutions to Smart Meters (SCWSSM) /has not made a substantial contribution to Decision 13-07-24, because the issues SCWSSM raised were determined to be outside the scope of the proceeding, as set forth in the Scoping Memo Ruling.
2. The Center for Electromog Prevention has made the requisite showing of significant financial hardship.
3. The Center for Electromog Prevention (CEP) has not made a substantial contribution to Decision 13-07-024, because the issues raised by CEP were determined to be outside the scope of the proceeding, as set forth in the Scoping Memo Ruling.
4. No hourly rates are set in this decision.
5. No costs and expenses are awarded in this decision.

CONCLUSION OF LAW

1. The Claim fails to satisfy all requirements of Public Utilities Code §§ 1801-1812 and therefore no award of intervenor compensation should be made in this decision.

ORDER

1. Southern Californians for Wired Solutions to Smart Meters is not awarded intervenor compensation, because it did not make a substantial contribution to Decision 13-07-024.
2. The Center for Electromog Prevention is not awarded intervenor compensation, because it did not make a substantial contribution to Decision 13-07-024.
3. The comment period for today's decision is not waived.

This decision is effective today.

Dated _____, at Bakersfield, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1307024		
Proceeding(s):	A1106006; A1106029 , A1107001		
Author:	ALJ Timothy Sullivan		
Payer(s):	N/ A		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier ?	Reason Change/Disallowance
Southern Californians for Wired Solutions to Smart Meters (SCWSSM) and Center for Electromog Prevention (CEP)	9/30/2013	\$30,242.76	\$0.00	N/A	No substantial contribution made to D1307024.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Martin	Homec	Attorney	SCWSSM and CEP	\$185	2011	No rate set
Martin	Homec	Attorney	SCWSSM and CEP	\$190	2012	No rate set
Martin	Homec	Attorney	SCWSSM and CEP	\$235	2013	No rate set

(END OF APPENDIX)